

Introduced by Senator Cox

February 22, 2008

An act to add Part 9 (commencing with Section 12866) to Division 2 of the Insurance Code, relating to foreign electric cooperative reciprocals.

LEGISLATIVE COUNSEL'S DIGEST

SB 1693, as introduced, Cox. Foreign electric cooperative reciprocals.

Existing law generally regulates the conduct of insurance business in this state.

This bill would authorize foreign electric cooperative reciprocals under which electric cooperatives, telephone cooperatives, or both, would be authorized to exchange reciprocal or interinsurance contracts with one another providing insurance, other than life, title, mortgage, mortgage guaranty, or insolvency insurance, against loss, as specified. The bill would establish various administrative procedures to be complied with in order to operate as an electrical cooperative reciprocal in the state. The bill would state findings and declarations of the Legislature in regard to electrical cooperative reciprocals.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Part 9 (commencing with Section 12866) is added
- 2 to Division 2 of the Insurance Code, to read:

PART 9. FOREIGN ELECTRIC COOPERATIVE
RECIPROCAL

12866. The Legislature finds and declares as follows:

(a) The provisions of this part are for the purpose of providing a means for electric cooperatives to insure against loss.

(b) A reciprocal is a useful insurance mechanism for electrical cooperatives and telephone cooperatives. A foreign reciprocal insurer composed of electric cooperatives, telephone cooperatives, or both, being regulated in its state of domicile and owned and directed by its members, shall not be subject to the same laws as a commercial insurance company that provides insurance to the general public.

12867. The general provisions hereafter set forth shall govern the application of this part and shall supersede any other provisions of law in conflict.

12868. The following definitions govern this part:

(a) An “affiliate” of a specific person, means a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(b) “Domicile,” for purposes of determining the state in which an electric cooperative reciprocal is domiciled, means the following:

(1) For a corporation, the state in which the electric cooperative reciprocal is incorporated and licensed to do business.

(2) For an unincorporated entity, the state of its principal place of business and in which it is licensed to do business.

(c) “Electric cooperative” means a cooperative entity organized for the purpose of transmitting or distributing electricity and related services to its owner customers at cost, and its affiliates.

(d) “Electric cooperative reciprocal” means an organization under which electric cooperatives or telephone cooperatives, or both, exchange reciprocal or interinsurance contracts with one another providing insurance, other than life, title, mortgage, mortgage guaranty, or insolvency insurance, against any loss that may be insured against under other provisions of law, and which is licensed in at least one state as a reciprocal insurance company.

(e) “Foreign electrical cooperative reciprocal” means an electric cooperative reciprocal domiciled in a state other than this state.

1 (f) “State” means any state of the United States or the District
2 of Columbia.

3 (g) “Subscribers” means the electric cooperatives and telephone
4 cooperatives that exchange reciprocal or interinsurance contracts
5 with one another through an electric cooperative reciprocal.

6 (h) “Telephone cooperative” means a cooperative entity
7 organized for the purpose of providing telephone and related
8 services to its owner customers at cost, and its affiliates.

9 12869. (a) A foreign electric cooperative reciprocal seeking
10 to do business as an electric cooperative reciprocal in this state
11 shall file a notice with the commissioner of its intention to do
12 business in this state, provided that this requirement shall not apply
13 to a foreign electric cooperative reciprocal that has issued in force
14 insurance policies in this state on the effective date of this statute.
15 The notice shall be filed with the commissioner at least 60 days
16 before the foreign electric cooperative reciprocal commences
17 business in this state. The notice shall include all of the following
18 materials:

19 (1) A statement identifying the electric cooperative reciprocal’s
20 state of domicile and any states in which the electric cooperative
21 reciprocal is licensed as an insurance company, date of initial
22 licensing, its principal place of business, and other information,
23 including information regarding its subscribers as the commissioner
24 may require to verify that the electric cooperative reciprocal meets
25 the requirements of this part.

26 (2) A copy of its plan of operations, including, at a minimum:

27 (A) Information to demonstrate that its subscribers will be
28 predominantly electrical cooperatives, telephone cooperatives, or
29 both.

30 (B) The coverages, deductibles, coverage limits, rates, and rating
31 classification systems for each line of insurance the electric
32 cooperative reciprocal intends to offer.

33 (C) Historical and expected loss experience for the electric
34 cooperative reciprocal, to the extent that this experience is
35 reasonably available.

36 (D) Identification of management, underwriting and claims
37 procedures, marketing methods, managerial oversight methods,
38 investment policies, and reinsurance agreements.

39 (3) A rate filing in the format prescribed by the commissioner.

(4) Financial statement as of December 31 next preceding, with actuarial opinion, and the most recently quarterly financial statement, all as filed with the electric cooperative reciprocal's state of domicile, and three-year statutory financial projections.

(5) A filing fee of ____ dollars (\$____) shall accompany the notice.

(b) A foreign electric cooperative reciprocal that has issued in force insurance policies within this state as of January 1, 2008, shall submit to the commissioner all of the following:

(1) On an annual basis, a copy of the electric cooperative reciprocal's annual financial statement submitted to the electric cooperative reciprocal's state of domicile, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist.

(2) Upon request by the commissioner, a copy of each report of examination of the electric cooperative reciprocal as certified by the commissioner or public official conducting the examination and all documentation received as part of the examination.

(3) Upon request by the commissioner, a copy of any outside audit performed with respect to the electric cooperative reciprocal.

(c) Each foreign electric cooperative reciprocal is liable for the payment of premium taxes and taxes on premiums for business done or located within this state, and shall report to the commissioner the gross premiums written, less returned premiums, on business done within this state. A foreign electric cooperative reciprocal is subject to taxation, and any applicable fines and nonconformance fees related thereto, on the same basis as a foreign admitted insurer.

12870. A foreign electric cooperative reciprocal, its attorney-in-fact, and policies issued by a foreign electric cooperative reciprocal, and all matters incident to or concerned with such contracts and companies shall be exclusively subject to and regulated by the provisions of this part and, except as provided in Section 12871, shall not be governed by any other provision of this code.

12871. The following provisions shall be applicable to a foreign electric cooperative reciprocal, its attorney-in-fact, and policies issued by foreign electric cooperative reciprocals:

1 (a) Sections 1 to 46, inclusive.

2 (b) Chapter 3 (commencing with Section 330) of Part 1 of
3 Division 1.

4 (c) Chapter 12 (commencing with Section 679.70) of Part 1 of
5 Division 1.

6 (d) The following provisions of Chapter 1 (commencing with
7 Section 680) of Part 2 of Division 1:

8 (1) Article 1.5 (commencing with Section 685).

9 (2) Section 750.

10 (3) Article 6.5 (commencing with Section 790).

11 (4) Article 10 (commencing with Section 900).

12 (5) Article 10.3 (commencing with Section 928).

13 (6) Article 10.5 (commencing with Section 930).

14 (7) Article 14 (commencing with Section 1010), except for
15 Sections 1044, 1045, and 1047.

16 (8) Article 14.5 (commencing with Section 1065.1).

17 (e) The following provisions of Chapter 2 (commencing with
18 Section 1140) of Part 2 of Division 1:

19 (1) Article 3 (commencing with Section 1170).

20 (2) Article 4 (commencing with Section 1190), except Section
21 1194.8.

22 (3) Article 7 (commencing with Section 1250).

23 (f) Chapter 9 (commencing with Section 1850) of Part 2 of
24 Division 1.

25 (g) Division 3 (commencing with Section 12900).

26 12872. A foreign electric cooperative reciprocal that is duly
27 formed and organized under the law of its own state of domicile
28 shall not be subject to the law of this state with respect to formation
29 and organization.